

NO. 24-7203

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,
PLAINTIFF-APPELLEE,

v.

BENJAMIN MARTIN,
DEFENDANT-APPELLANT.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
D.C. No. 1:21-CR-228-JLT-BAM

**UNITED STATES' SUPPLEMENTAL STATEMENT OF NON-OPOSITION
TO APPEAL PURSUANT TO RULE 9(b)**

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The United States hereby gives notice that it no longer opposes Martin's motion for release pending appeal, filed pursuant to Rule 9(b) of the Federal Rules of Appellate Procedure. After consultation with the leadership of the Department of Justice, the United States now agrees with Martin that this Court should grant his motion for release pending appeal and order that he be released.¹ There is a substantial question of law or fact regarding Martin's pardon that supports release pending appeal.

The United States notes that on February 27, 2025, in the afternoon, Martin filed an emergency motion asking this Court to vacate his judgment and remand the case with instructions to order his immediate release. *See* Dkt. 20. After the filing of that motion, the undersigned spoke with Martin's new counsel, George Pallas, who explained that if the United States filed a non-opposition to Martin's Rule 9(b) motion, then his request for relief as to the ultimate disposition of his appeal may proceed on a non-emergency

¹ Martin is serving the 38-month sentence imposed in this case and has a projected release date of September 24, 2027.

track.² Mr. Pallas authorized the undersigned to make this representation to this Court.

The United States requests that this Court grant Martin's motion for release pending appeal and order that he be released from BOP custody.

Dated: February 27, 2025

Respectfully submitted,

MICHELE BECKWITH
Acting United States Attorney

/s/ Nirav K. Desai

NIRAV K. DESAI
Assistant United States Attorney

² Martin's motion inadvertently and incorrectly states that Mr. Pallas contacted the undersigned before filing the emergency motion. The undersigned was not made aware of the emergency motion before it was filed. Mr. Pallas later emailed this Court to explain the error and will file a corrected motion.